

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO.218 of 2006

DATED:27-03-2006

Between:

K.Mutyalu Petitioner

And

**The Municipal Corporation of Kurnool and another
Respondents**

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO.218 of 2006

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ORDER:

It is the case of the petitioner that the premises in Survey No.450 B/1A of Kallur was originally a thrashing floor belonging to his ancestors and the said property was partitioned vide partition deed dated 28-7-1951 and part of the property is fallen to the share of the petitioner in which shops were constructed bearing premises No.77/1, Kallur,(old No.8-1-8). It is stated that the first respondent partially demolished three shops for widening the road without issuing any notice or following the due process of law.

A counter has been filed stating that as per the re-survey and re-settlement register of Kallur village records, the Survey No.450/B of Kallur village is a rasta and hence it belongs to the Government. As the said Survey No.450/B is a rasta and it belongs to the Government, the petitioner has no right in the said rasta. The respondent is not aware about the partition deed in between the family members and is also not aware about granting permission by the Gram Panchayat to construct six shops. The Kullur Grama Panchayat was merged with the Municipal Corporation on 8-2-2002 and as per the Master Plan, there is a 100 feet width road running towards the eastern side of the petitioner's shops . Out of six shops, three shops are fallen in the Master Plan of 100 feet road. After Kallur Grama Panchayat merged with the Kurnool Municipal Corporation, the respondent has taken several developmental programmes. It is stated that the three shops of the petitioner have been fallen in the 100 feet Master

Plan road and the said land belongs to the Government, therefore, no proceedings are initiated for acquiring the land of the petitioner. If the petitioner establishes that the said land belongs him, land acquisition proceedings should be initiated. According to the petitioner, it is a private land and according to the respondents, it is a Government land. The said disputed question of fact cannot be decided in this writ petition and the writ petition is liable to be dismissed.

The writ petition is dismissed. No costs.

V.ESWARAIAH,J

27-3-2006

Stp

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